United Nations A/HRC/WG.12/6/1

General Assembly

Distr.: General
8 January 2014

Original: English

Human Rights Council
Working Group on the issue of human rights and transnational corporations and other business enterprises
Sixth session
25–29 November 2013

Outcome of the sixth session of the Working Group on the issue of human rights and transnational corporations and other business enterprises

GE.14-10097

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I. Summary

1. The Working Group on the issue of human rights and transnational corporations and other business enterprises held its sixth session from 25 to 29 November 2013 in Geneva. During the session, the Working Group discussed the following items:

(a) The final preparations for the second annual Forum on Business and Human Rights in Geneva in December 2013;

(b) The first Regional Forum for Latin America and the Caribbean, co-hosted by the Working Group, the Regional Bureau for Latin America and the Caribbean of the United Nations Development Programme (UNDP), and the Government of Colombia in August 2013;[1]

(c) Global developments concerning business and human rights;

(d) Council resolution 22/29; and

(e) Methods of work and engagement with partners.

2. During its sixth session, the Working Group held meetings with representatives of Member States and of organizations, including the United Nations Research Institute for Social Development, the United Nations Environment Programme Finance Initiative, ACCESS Facility, the Danish Institute for Human Rights, the Organisation for Economic Co-operation and Development, and an independent consultant.

3. The Working Group also met informally with representatives from Friedrich Ebert Stiftung, the Committee on Economic, Social and Cultural Rights, the International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations, and the International Organization of Employers.

II. Engagement with partners and stakeholder organizations

4. The Working Group held a meeting with the Group of Friends of Business and Human Rights, comprising interested members and observer States of the Council. It reported on its programme of activities for 2013, including the presentation of its thematic report to the General Assembly on the implementation of the Guiding Principles on Business and Human Rights in the context of business activities that have an impact on indigenous peoples. The Chairperson of the Working Group highlighted that, in addition to presenting the Working Group's report to the General Assembly, he had participated as a panellist in a side event organized by International Service for Human Rights and the Permanent Mission of Norway to the United Nations on large-scale development project and the role, protection and effective participation of human rights defenders, together with the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya.[2]

5. The Working Group also provided information on the letters of allegation that it had issued;[3] the activities of the members of the Working Group, in particular the 2013 meetings and workshops that they had convened and participated in as part of their efforts

[1] For more information, see www.ohchr.org/en/Issues/Business/Forum/Pages/2013LACRegional ForumBusinessandHumanRights.aspx.

[2] For more information, see www.ishr.ch/sites/default/files/documents/the_role_protection_and_effective_participation_of_defenders_in_development_final.pdf.

[3] Information is available in the communications reports of special procedures; see A/HRC/24/12 for the latest.

to disseminate the Guiding Principles and embed them in a global governance strategy;[4] and its various projects to further encourage comprehensive implementation of the Guiding Principles.[5] The Working Group further reported that the majority of the allegations of violations of human rights linked to business activities that it received related to issues in Latin America and the Caribbean and the Asia-Pacific regions; while more than half of the invitations the Working Group receives to lead and participate in meetings come from organizations based in countries in the Western European and Others Group. The Working Group also outlined its plans to provide assistance and guidance with regard to States developing national action plans on the implementation of the Guiding Principles, and referred to the discussion paper it had produced for the pre-Forum session for States.[6] The Working Group also highlighted that the role of business in the post-2015 development agenda and the sustainable development goals needs to be anchored in the Guiding Principles.[7]

6. The Working Group also provided an update on its preparations for the annual Forum in December 2013 and information on the first Regional Forum for Latin America and the Caribbean held in August 2013. It reiterated that the annual Forum programme had been carefully designed to foster a multi-stakeholder dialogue and to ensure a focus on all three pillars of the Guiding Principles ("protect, respect and remedy") and on different regional and sectoral practices, trends, challenges and opportunities. The Working Group explained its level of stakeholder engagement at the regional Forum, and outlined the Forum's success in providing a neutral space for all participants to discuss issues affecting Latin America and the Caribbean, including impunity, business impacts on land and the environment, and issues relating to the security practices and policies by companies.

7. As part of the Working Group's emphasis on regional implementation of the Guiding Principles, it held meetings with States in their United Nations regional groups to discuss regional activities to implement and disseminate the Guiding Principles and the challenges faced on the ground.

8. The Working Group met with the Permanent Representative of Ecuador to the United Nations, Luis Gallegos Chiriboga, in response to an invitation to participate in a two-day workshop organized by the Permanent Mission of Ecuador during the twenty-fifth session of the Council on 11 and 12 March 2014 in Geneva.

9. The members of the Working Group further held discussions on its participation in specific events,[8] and a number of issues and projects related to their mandate.[9] The Working Group held meetings with: the United Nations Research Institute for Social Development and an independent consultant to consider the impact of corporate lobbying on human rights; ACCESS Facility on its joint Working Group research project on the outcomes of non-judicial grievance mechanisms; the Danish Institute for Human Rights with regard to the Working Group's efforts to develop a country visit template and its input

[4] Information available from www.ohchr.org/EN/Issues/Business/Pages/WGEventsStatements.aspx.

[5] The Working Group has published a document which gives an overview of its mandated activities and how it engages with and/or supports initiatives and projects in the field of business and human rights. See www.ohchr.org/EN/Issues/Business/Pages/ActivitiesAndEngagement.aspx.

[6] Available from www.ohchr.org/EN/Issues/Business/Forum/Pages/PreForumsessionforStates.aspx.

[7] See "Equality or bust for post-2015 global development goals – UN rights experts", press release, 21 May 2013. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13342&LangID=E.

[8] For more information on events, statements and dissemination activities, see www.ohchr.org/EN/Issues/Business/Pages/WGEventsStatements.aspx.

[9] For more information on mandated activities and engagement with initiatives in the field of business and human rights, see www.ohchr.org/EN/Issues/Business/Pages/ActivitiesAndEngagement.aspx.

into the national action plan project; the Organisation for Economic Co-operation and Development on collaboration for the implementation of the Guiding Principles in the financial sector and on convergence among non-judicial grievance mechanisms; the United Nations Environment Programme Finance Initiative on its human rights and finance work; and with the Office of the United Nations High Commissioner for Human Rights (OHCHR) on its initiative to explore how to enhance access to effective remedy for gross human rights abuses.

10. In the light of the increasing and varied demands presented to the Working Group, the members discussed the need to focus its strategy on addressing concerns with ongoing impunity and the slow progress by some countries and business enterprises in implementing the Guiding Principles. The Working Group reiterated the value and legitimacy of the Guiding Principles, while recognizing the need to urge business enterprises and States to step up their commitments to implement the Guiding Principles. The Working Group also discussed the need to avoid a return to the politicization of the business and human rights field.

11. Throughout its various activities and projects, the Working Group continued to integrate a gender perspective as required by resolution 17/4, paragraph 6 (f). In particular, the Working Group highlighted that the specific vulnerabilities of women were included in its report on indigenous peoples to the General Assembly (A/68/279); and that gender perspectives were integrated in the organization of both the regional and annual Forums.

III. Second annual Forum on Business and Human Rights (2–4 December 2013, Geneva)

12. The Working Group discussed the final preparations for the second annual Forum on Business and Human Rights with the Secretariat.[10] The Working Group sought to reflect lessons learned and feedback from participants of the 2012 Forum, while being conscious that different stakeholder groups may have diverging expectations. The Working Group decided to create more opportunities for interaction among stakeholder and professional communities, while devoting pre-Forum side sessions to peer learning and coordination within stakeholder groups. The Working Group had sought to incorporate as many of the suggestions it received as possible, while noting that the limited time available for the Forum did not allow it to accommodate all requests. The Working Group highlighted some key principles that guided its preparations for the 2013 annual Forum.

13. First, the Working Group had decided that the Forum's agenda should reflect the fact that the key to tackling the challenges inherent in the field of business and human rights is to ensure that emphasis is placed on all three pillars of the Guiding Principles ("protect, respect and remedy"), and advancing their implementation as one goal. The Working Group confirmed its commitment to a balanced approach as the best way forward, and to addressing and avoiding potential politicization among stakeholders. The Working Group had also stressed the importance of ensuring multi-stakeholder dialogue and input during the Forum. As well as ensuring that most Forum panels incorporate a dimension of each pillar, the Working Group ensured that each panel included speakers from States, business enterprises, civil society and affected stakeholders where possible.

14. Second, the Working Group continued to advocate and practise the multi-stakeholder approach to dialogue and principled pragmatism, which enabled the

[10] For more information on the second annual Forum, see www.ohchr.org/EN/Issues/Business/Forum/Pages/2013ForumOnBusinessandHumanRights.aspx.

international community to move forward in the creation of a much needed global standard on a key aspect of corporate conduct — its impact on people. The agenda of the Forum was designed to reflect this approach.

15. Third, the Working Group had also decided to engage with stakeholders at the regional level, in particular States, regional financial institutions and development banks, human rights commissions, regional business associations, civil society and affected stakeholders, and regional multi-stakeholder initiatives, in order to reach new audiences and seek perspectives and lessons learned with regard to the challenges of and opportunities for implementing the Guiding Principles on the ground. The Working Group had decided that the regional focus would also become one of the themes of the 2013 Forum.

16. Fourth, the Working Group decided to highlight that it was time to scale up efforts to widen the number of business enterprises and States implementing the Guiding Principles through structured accountability models, whether by regulation, industry sector pacts, the new generation of multi-stakeholder initiatives or other means. The establishment of a capacity-building fund would enable all stakeholders to move forward on the basis of solid technical knowledge available to all.

17. Fifth, and as per its mandate to give special attention to persons living in vulnerable situations, the Working Group had decided that the Forum should highlight the impact of business operations on indigenous peoples, children, and migrant workers. Gender mainstreaming also informed decisions regarding the Forum.

18. The Working Group highlighted that the Forum secretariat had received financial resources to support the attendance of 43 participants from underrepresented countries and stakeholder groups at the annual Forum.

IV. Regional Forum for Latin America and the Caribbean (August 2013)

19. The Working Group decided to hold regional forums to engage directly with stakeholders in the respective regions of the world in order to learn more about local implementation practices and challenges and reinforce the promotion of the Guiding Principles regionally. The Working Group discussed the first Regional Forum for Latin America and the Caribbean, co-hosted by the Working Group, the UNDP Regional Bureau for Latin America and the Caribbean and the Government of Colombia and held in Colombia in August 2013. The Working Group highlighted that the results of the Regional Forum will inform discussions at the annual Forum in Geneva from 2 to 4 December 2013.

20. The Working Group noted that, out of approximately 415 registered persons from 17 countries across the Latin America and the Caribbean region (in addition to participants from outside of the region), 41 per cent were from civil society organizations, 28 per cent from business, 12 per cent from Governments and 19 per cent from United Nations agencies, other State-based and non-State international organizations, national human rights institutions, unions, and multi-stakeholder initiatives. The Working Group was pleased that people from 27 countries took part in this unprecedented regional dialogue. This dynamic of building networks for change is indispensable.

21. The Working Group noted that the regional Forum provided capacity-building opportunities for practitioners and civil society, a space to identify material issues on business and human rights in the region, and an opportunity to discuss emerging innovative practices designed to manage corporate impacts and enable equitable development with a human rights approach.

22. The Working Group identified practical opportunities for follow-up, which hopefully can trigger respectful and constructive conversations on how to ensure protection of and respect for human rights in the context of business activities through the implementation of the Guiding Principles in local contexts. Further follow-up by the Working Group included visits by Working Group members to Guatemala and Costa Rica in 2013, meetings with representatives of the Organization of American States and the Inter-American Commission on Human Rights, further engagement with UNDP on incorporating the Guiding Principles in its work, and direct engagement with a number of the other organizations that participated in the regional Forum.

23. The Working Group hopes to organize a similar Regional Forum in Africa sometime in 2014, and will continue to seek funding and support for this proposal.

V. Some planned activities for 2014

24. The Working Group discussed its upcoming report to be presented to the twenty-sixth session of the Council in 2014, and decided that its 2014 annual report to the General Assembly would focus on considerations relevant to the development of national action plans for implementation of the Guiding Principles.

25. The Working Group has published information on its country visits on its dedicated webpage.[11] The Working Group will announce its programme of visits for 2014 upon confirmation of dates by the relevant States.

26. The Working Group will hold its seventh session in Geneva from 17 to 21 February 2014.

VI. Chairperson and Vice-Chairperson

27. At the end of the sixth session, Alexandra Guáqueta was appointed Chairperson and Michael Addo was appointed Vice-Chairperson of the Working Group.

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[11] See www.ohchr.org/EN/Issues/Business/Pages/WGCountryVisits.aspx.